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MAR 14 2011

DEPARTMENT OF
WATER RESOURCES

3-14
IDWR

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Subcase 25-14698

(Insert water right number)

Case 39576

STANDARD FORM 4

MOTION TO FILE:

☐ LATE NOTICE OF CLAIM

☒ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court; the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is JOHNNY J. CABIGAS LANA J. Cabigas

My address is P.O. Box 145 CARMEN, IDAHO 83462

My phone number is: Work _____ Home 756-1740

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

A *Motion to File a Late Notice of Claim* will require a hearing before the Presiding Judge.

☐ I did not file a Notice of claim to the use of water in the SRBA because:

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR). **AMENDED**
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ **PREVIOUSLY SENT. \$50⁰⁰**

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on MAY 17 @ 1:30 PM
(Insert Date and Time)
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☒ I must amend my Notice of Claim to the use of water in the SRBA because:
- ERROR IN P.O. USE DESCRIPTION FOR
ORIGINAL LATE CLAIM FILING. SEE ATTACHED
E-MAIL AND PHOTO MAP.



I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

SEE ATTACHED E-MAIL AND PHOTO MAP.

I have attached:



An amended Notice of Claim (available from IDWR).



Payment of the following additional fees required by IDWR:

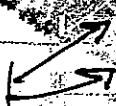
33

34

75-14698

4

CASICAS



SF4 asks for a POU in SWNE which is also present in the other claims. Another POU read in the SF-4 is the SESW which a typographical error and should probably be the SWW as described in the other claims.

SWNE 75-02025H 75-1000FA and 75-10002AA

T22 NR 22 E

SF4 asks for POU in SESW

-JVC

5

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treeboxmules

From: "Baxter, Garrick" <Garrick.Baxter@idwr.idaho.gov>
To: "John Burns" <treeboxmules@centurytel.net>
Sent: Monday, March 07, 2011 8:19 AM
Attach: 75-14698 typographical error presentation.pdf
Subject: FW: 05-17-2011, 1:30 pm, Hearing on Motion to File Late Notice of Claim: 75-14698, Cabigas (typo in POU)

Mr. Burns,

I received this email from the BLM folks. They regularly highlight potential issues like this. There are a number of ways to address.

Give me a call and we can discuss.

Garrick

-----Original Message-----

From: fwprice@blm.gov [mailto:fwprice@blm.gov]
Sent: Friday, March 04, 2011 2:48 PM
To: Baxter, Garrick
Subject: Fw: 05-17-2011, 1:30 pm, Hearing on Motion to File Late Notice of Claim: 75-14698, Cabigas (typo in POU)

Garrick,

RE: 05-17-2011, 1:30 pm, Hearing on Motion to File Late Notice of Claim:
 75-14698, Cabigas (typo in POU)

BLM doesn't care about the motion, but I suspect that the Notice of Claim (75-14698) attached to the SF-4 (Motion to File Late Claim) contains a typographical error in Place of Use (POU). All of the other claims (75-02025H, 75-10061AC and 75-10062AA) to the acres claimed under this new claim (75-14698) by this claimant describe POUs in SWNE, SENW, S03, T22N, R22E, however the Notice of Claim (75-14698) describes the SENW POU erroneously as the SESW. The Notice of Claim (75-14698) correctly describes the other POU in the SWNE, S03, T22N, R22E.

Fred

PS: If the motion is granted, then I hope the claim is ultimately recommended with the "no fed land" remark so BLM won't have to object to the future Director's Report due to the mixed ownership POU in the SENW, S03, T22N, R22E.
 (See attached file: 75-14698 typographical error presentation.pdf)

VERIFICATION (Must be completed)

State of IDAHO

County of LEMHI

Lana J. Cabigas
JOHNNY J. CABIGAS, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

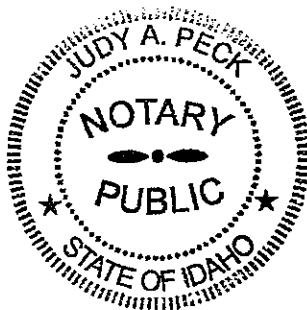
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Lana J. Cabigas
[Signature]

Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on March 9, 2011
(Insert Date)



Judy A. Peck
Notary Public for East Idaho Credit Union
Residing at: Carmen Id 83462
My Commission expires: 7-31-2012

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on MARCH 11, 2011, 1999, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

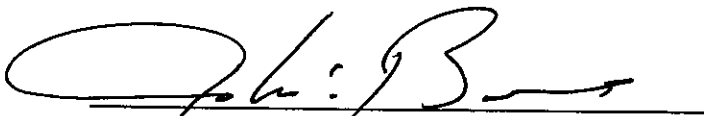
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

VIA BAXTER

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)


Signature of person or attorney mailing the form